

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

IN RE: REQUEST FOR LEGAL  
ASSISTANCE FROM THE REPUBLIC  
OF POLAND'S COMMISSION FOR  
PROSECUTION OF CRIMES  
AGAINST THE POLISH NATION

Case: 2:09-mc-50536  
Judge Marianne O. Battani  
Magistrate Judge Mona K. Majzoub

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**ORDER APPOINTING WILLIAM HENRY KENETY V AND PETER A. CAPLAN  
AS COMMISSIONERS FOR THE PURPOSE OF FULFILLING A REQUEST  
FOR LEGAL ASSISTANCE PURSUANT TO THE TREATY ON  
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

This matter is before the Court upon the United States' Petition to Appoint William Henry Kenety V and Peter A. Caplan as Commissioners for the Purpose of Fulfilling a Request for Legal Assistance Pursuant to the Treaty on Mutual Legal Assistance in Criminal Matters. In addition, the proposed Commissioners, Kenety and Caplan, seek authority to issue a subpoena pursuant to 28 U.S.C. § 1782 and the Federal Rules of Civil Procedure.

The Court has reviewed the Petition, and the responsive pleadings, including John Kalymon's Brief in Opposition to the Petition. It is satisfied that the Commission for Prosecution of Crimes Against the Polish Nation in Warsaw, Poland issued the Request, and that the subpoena attached hereto will be helpful in fulfilling the Request.

Further, the Court agrees with Petitioner that Mr. John Kalymon lacks standing to challenge the appointment of commissioners. See e.g. Mora v. New York, 524 F.3d 183, 201-02 (2d Cir.), cert. denied, \_\_\_ U.S. \_\_\_, 129 S. Ct. 387 (2008). Although the Government asks the Court to consider the merits of the arguments raised by Kalymon

as a means of forestalling a future request to quash the subpoena included in the Petitioner's request, the Court declines to rule on matters not properly before it. Moreover, the action advocated by Petitioner requires the Court to recharacterize Kalymon's pleadings and further precludes his reply to the Government's arguments as to the applicability of the mutual legal assistance treaty. Now, therefore,

**IT IS HEREBY ORDERED** that Office of Special Investigations Senior Trial Attorney, William Henry Kenety V, and Eastern District of Michigan Assistant United States Attorney, Peter A. Caplan, are appointed Commissioners for the purposes of the Request issued by the Commission for Prosecution of Crimes Against the Polish Nation.

**IT IS FURTHER ORDERED** that William Henry Kenety V and Peter A. Caplan are authorized to issue the attached subpoena to Ivan/Johan/John Kalimon/Kalimon/Kalymon, and to take other steps as are necessary to fulfilling the requests contained in the Request.

**IT IS FURTHER ORDERED** that the parties receiving any such subpoena or interrogatory shall be provided a copy of this Order, and in accordance with § 1782, "the testimony or statement shall be taken, and the documents produced in accordance with the Federal Rules of Civil Procedure."

**IT IS SO ORDERED.**

s/Marianne O. Battani  
MARIANNE O. BATTANI  
UNITED STATES DISTRICT JUDGE

Date: June 11, 2009

**CERTIFICATE OF SERVICE**

Copies of this Order were mailed and/or electronically filed to counsel of record on this date.

s/Bernadette M. Thebolt  
Deputy Clerk